

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MASSACHUSETTS

CITIBANK, N.A., AS TRUSTEE,

Plaintiff,

v.

JOHN P. PHELAN, WENDY M. PHELAN,
DAVID LABRIE, THE UNITED STATES
OF AMERICA, O'CALLAGHAN
CONSTRUCTION CO., and THE
COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF REVENUE,

Defendants.

Civil No. _____

05 - 40045 FDS

NOTICE OF REMOVAL TO THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

The defendant United States of America, by its attorney, Michael J. Sullivan, United States Attorney for the District of Massachusetts, respectfully states as follows:

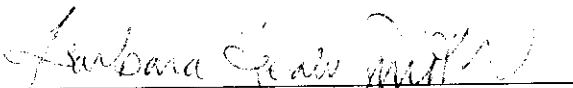
1. The United States of America has been named as a defendant to the civil action that is now pending in the Superior Court Department, Worcester County, for the Commonwealth of Massachusetts, entitled Citibank, N.A., as Trustee v. John Phelan, et al., Case No. 05-0197-B.
2. This action is removable to the United States District Court for the District of Massachusetts, pursuant to 28 U.S.C. § § 1441, 1442 and/or 1444.
3. No prior removal of this action has been attempted.
4. The removal of this action is timely under the provisions of 28 U.S.C. §1446(b) as the United States has thirty days from the date of service to remove to federal court.

- 2 -

5. Copies of all pleadings received by the defendant United States in this proceeding are attached hereto.

I hereby certify that a true copy of the above document was served upon (each party appearing pro se and) the attorney of record for each other party by mail on

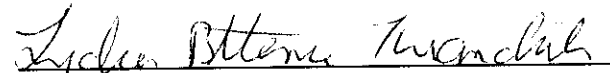
March 11, 2005


BARBARA HEALY SMITH
United States Attorney's Office
One Courthouse Way
Suite 9200
Boston, Massachusetts 02210

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

BARBARA HEALY SMITH
Assistant United States Attorney


LYDIA BOTTOME TURANCHIK
Trial Attorney, Tax Division
U.S. Department of Justice
Post Office Box 55
Ben Franklin Station
Washington, D.C. 20044
Telephone: (202) 307-6560
Lydia.D.Bottome@usdoj.gov

COMMONWEALTH OF MASSACHUSETTS

Worcester, ss.

RECEIVED
Superior Court
U.S. ATTORNEY
Department of the Trial Court.
of the Commonwealth
Civil Action

No. 05-0197 B

CitiBank, N.A. as Trustee

Plaintiff (s)

v.

SUMMONS

John P. Phelan, Wendy M. Phelan, David

LaBrie, The United States of America,

O'Callaghan Construction Co. and the Commonwealth of MA DOR

* To the above-named Defendant: The United States of America

You are hereby summoned and required to serve upon Raymond C. Pelote, Harmon Law P.C., plaintiff's attorney, whose address is 150 California Street, Newton, MA 02458, an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgement by default will be taken against you for the relief demanded in the complaint. You are also required to file your answer to the complaint in the SUPERIOR COURT Department of the Trial Court at WORCESTER either before service upon plaintiff's attorney or within a reasonable time thereafter.

Unless otherwise provided by Rule 13 (a), your answer must state as a counter-claim any claim which you may have against the plaintiff which arises out of the transaction of occurrence that is the subject matter of the plaintiff's claim or you will thereafter be barred from making such claim in any other action.

Witness, SUZANNE V. DEL VECCHIO, Esquire, at Worcester, the fourth day of February in the year of our Lord two thousand and five

Suzanne V. Del Vecchio
Clerk

NOTES:

1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all defendants should appear in the caption. If a separate summons is used for each defendant, each should be addressed to that particular defendant.

PLEASE CIRCLE TYPE OF ACTION INVOLVED: TORT — MOTOR VEHICLE TORT — CONTRACT EQUITABLE RELIEF — CH. 93A — MEDICAL MALPRACTICE — OTHER.

*

NOTICE TO DEFENDANT: You need not appear personally in court to answer the complaint, but if you claim to have a defense, either you or your attorney must serve a copy of your written answer within 20 days as specified herein AND also file the original in the Clerk's Office, Superior Court, Room 21.

Commonwealth of Massachusetts**County of Worcester****The Superior Court****CIVIL DOCKET# WOCV2005-00197-B****RE: Citibank NA Trustee v Phelan et al**

TO: David M Rosen, Esquire
Harmon Law Offices (Mark P)
150 California Street
PO Box 610389
Newton Highlands, MA 02461-0389

TRACKING ORDER - X TRACK

You are hereby notified that this case is on the accelerated (X) track as per Superior Court Standing Order 1-88. The order requires that the various stages of litigation described below must be completed not later than the deadlines indicated.

STAGES OF LITIGATION**DEADLINE**

Service of process made and return filed with the Court	05/04/2005
Response to the complaint filed (also see MRCP 12)	07/03/2005
Firm trial date set	08/02/2005
Case disposed	09/01/2005

Counsel for plaintiff must serve this tracking order on defendant before the deadline for filing return of service.

This case is assigned to session B sitting in Rm 18 (Session B) at Worcester Superior Court.

Dated: 02/03/2005

Francis A. Ford
Clerk of the Courts

BY: Denise D. Foley/Gail Dempsey
Assistant Clerk

Location: Rm 18 (Session B)
Telephone: 508-770-1899, Ext. 129 or Ext. 108 (Session Clerk)

Disabled individuals who need handicap accommodations should contact the Administrative Office of the Superior Court at (617) 788-8130

**Commonwealth of Massachusetts
County of Worcester
The Superior Court**

CIVIL DOCKET# **WOCV2005-00197-B**

RE: Citibank NA Trustee v Phelan et al

**TO: Raymond C Pelote, Esquire
Harmon Law Offices (Mark P)
150 California Street
PO Box 610389
Newton, MA 02458-0389**

TRACKING ORDER - X TRACK

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STAGES OF LITIGATION

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CIVIL ACTION COVER SHEET	DOCKET NO.(S)	Trial Court of Massachusetts Superior Court Department County: <u>Worcester</u>
PLAINTIFF(S) Citibank, N.A., as Trustee	DEFENDANT(S) John P. Phelan, Wendy M. Phelan, David La Brie, The United States of America, O'Callaghan Construction Company and the Commonwealth of Massachusetts Department of Revenue	
ATTORNEY, FIRM NAME, ADDRESS AND TELEPHONE Raymond C. Pelote, Harmon Law Offices, P.C. 150 California St., Newton, MA 02458 (617) 558-0500 Board of Bar Overseers number: 655475	ATTORNEY (if known)	
Origin code and track designation Place an x in one box only:		
<input checked="" type="checkbox"/> 1. F01 Original Complaint		
<input type="checkbox"/> 2. F02 Removal to Sup.Ct. C.231,s.104 (Before trial) (F)		
<input type="checkbox"/> 3. F03 Retransfer to Sup.Ct. C.231,s.102C (X)		
<input type="checkbox"/> 4. F04 District Court Appeal c.231, s. 97 &104 (After trial) (X)		
<input type="checkbox"/> 5. F05 Reactivated after rescript; relief from judgment/Order (Mass.R.Civ.P. 60) (X)		
<input type="checkbox"/> 6. E10 Summary Process Appeal (X)		
TYPE OF ACTION AND TRACK DESIGNATION (See reverse side)		
CODE NO.	TYPE OF ACTION (specify)	TRACK IS THIS A JURY CASE?
E99	Interpleader	(X) () Yes (X) No
The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.		
TORT CLAIMS (Attach additional sheets as necessary)		
A. Documented medical expenses to date:		
1. Total hospital expenses		\$
2. Total Doctor expenses		\$
3. Total chiropractic expenses		\$
4. Total physical therapy expenses		\$
5. Total other expenses (describe)		\$
Subtotal		\$
B. Documented lost wages and compensation to date		\$
C. Documented property damages to date		\$
D. Reasonably anticipated future medical and hospital expenses		\$
E. Reasonably anticipated lost wages		\$
F. Other documented items of damages (describe)		\$
G. Brief description of plaintiff's injury, including nature and extent of injury (describe)		\$
TOTAL		\$ 20,389.50
CONTRACT CLAIMS (Attach additional sheets as necessary)		
Provide a detailed description of claim(s): Plaintiff is holding surplus funds that it would like to pay into Court. Plaintiff further requests that it be discharged from any further obligation involving this matter.		
TOTAL		\$ 20,389.50
PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT		
"I hereby certify that I have complied with the requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods."		
Signature of Attorney of Record		DATE: <u>1/27/05</u>

COMMONWEALTH OF MASSACHUSETTS**WORCESTER, SS.****SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT
CIVIL ACTION NO.****CITIBANK, N.A. AS TRUSTEE,****Plaintiff,****v.****JOHN P. PHELAN, WENDY M. PHELAN,
DAVID LA BRIE, THE UNITED STATES OF
AMERICA, O'CALLAGHAN
CONSTRUCTION COMPANY AND THE
COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF REVENUE,****Defendants.****COMPLAINT IN INTERPLEADER
(Mortgage Foreclosure Surplus Proceeds)****INTRODUCTION**

This action is being brought after a foreclosure sale on a property 812 W. Shore Drive, Winchendon, MA 01475. Citibank, N.A., as Trustee, the foreclosing mortgagee, is currently holding surplus funds that it would like to pay into Court. Citibank, N.A., as Trustee further requests that it be discharged from any further obligation involving this matter.

In the above action, Citibank, N.A., as Trustee respectfully represents:

PARTIES

1. The Plaintiff, Citibank, N.A., as Trustee, (hereinafter referred to as "Citibank") is a corporation having its usual place of business c/o Chase Manhattan Mortgage Corporation, 10790 Rancho Bernardo Road, San Diego, CA 92127.

2. The Defendant, John P. Phelan, is upon information and belief, an individual with a last known address of 812 W Shore Drive, Ashburnham, MA 01430.
3. The Defendant, Wendy M. Phelan, is upon information and belief, an individual c/o Attorney John J. Curley, III, McEvilly & Curley, 48 West Street, Suite 1, Leominster, MA 01453.
4. The Defendant, David La Brie, is upon information and belief, an individual c/o Attorney Peter M. Mirageas, 27 Prospect Street, Marlboro, MA 01752.
5. The Defendant, The United States of America, is upon information and belief, a federal agency with a usual business address of P.O. Box 9112, Stop 20800, JFK Federal Building, Boston, MA 02203.
6. The Defendant, O'Callaghan Construction Company, is upon information and belief, a company c/o Attorney Edwin H. Howard, Bonville & Howard, 154 Prichard Street, Fitchburg, MA 01420.
7. The Defendant, The Commonwealth of Massachusetts Department of Revenue, is upon information and belief, a state agency with a usual business address of 100 Cambridge Street, Boston, MA 02114.

FACTS

8. The Plaintiff, Citibank, was the holder by assignment of a first mortgage given by John P. Phelan and Wendy M. Phelan to Chase Manhattan Bank USA, N.A., dated April 11, 2003 and recorded in the Worcester County (Worcester District) Registry of Deeds in Book 29719 at Page 50, securing the real estate located at 812 W. Shore Drive, Winchendon, MA 01475 ("the property").

9. On October 22, 2004, Citibank foreclosed on the mortgaged property by public auction.
10. The mortgaged property was sold to a third party for \$270,000.00.
11. After satisfaction of the indebtedness to the Plaintiff, including costs of foreclosure and sale, accrued interest and late charges in the aggregate sum of \$249,610.50, there is surplus now held by the Plaintiff in the amount of \$20,389.50. See Exhibit "A" attached hereto.
12. The following persons and entities appear of record to be all of the persons or entities having an interest in said funds held by Citibank, to wit:
 - (a) The Defendant, John P. Phelan, is the former holder of the equity of redemption and holder of a declaration of homestead.
 - (b) The Defendant, Wendy M. Phelan, is the former holder of the equity of redemption.
 - (c) The Defendant, David La Brie, is the holder of an Execution dated May 26, 2004 and recorded June 4, 2004 in the Worcester County Registry of Deeds in Book 33801 at Page 77 in the original amount of \$12,907.77.
 - (d) The Defendant, The United States of America, is the holder of a federal tax lien dated August 12, 2004 and recorded August 18, 2004 in the Worcester County Registry of Deeds in Book 34400 at Page 307 in the original amount of \$56,978.09.
 - (e) The Defendant, O'Callaghan Construction Company, is the holder of an Execution dated August 16, 2004 and recorded August 20,

2004 in the Worcester County Registry of Deeds in Book 34426 at Page 281 in the original amount of \$8,726.84.

- (f) The Defendant, The Massachusetts Department of Revenue, is the holder of a state tax lien dated October 4, 2004 and recorded October 5, 2004 in the Worcester County Registry of Deeds in Book 34774 at Page 366 in the original amount of \$13,652.77.

COUNT ONE

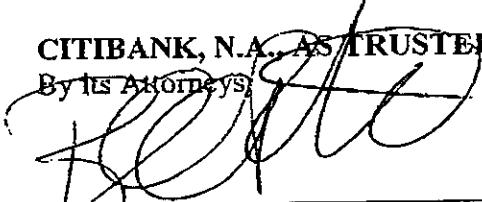
(DECLARATORY JUDGMENT)

13. Citibank repeats and alleges Paragraph 1 through 12 and incorporates herein by reference.
 14. Citibank believes that it runs a risk that adverse claims to the surplus proceeds may be made by Defendants in this action.
 15. Citibank is unaware of the respective rights of the Defendants and is unable to determine to whom the funds are justly due and payable.
 16. Citibank's only claim in interest in the surplus proceeds is to have the costs and expenses that are associated with this action paid from the surplus proceeds.
- Citibank has at all times been willing to pay the surplus to such entities or persons as should lawfully be entitled to received the same and to whom Citibank could safely and without hazard to itself pay the same and Citibank hereby offers to transfer the surplus to this Court at such time and under such conditions as the Court may Order and Direct.

WHEREFORE, the Plaintiff, Citibank, N.A., as Trustee, prays that:

1. The said Defendants be ordered to appear and present their claims, if any, to the surplus funds;
2. That the Plaintiff be allowed its costs, expenses and attorney's fees in this Interpleader Action;
3. That the Plaintiff be permitted to pay all surplus funds held by it in the amount of \$20,389.50, less its fees and costs incurred in this Interpleader Action, into this Court;
4. That the rights of the Defendants herein named be determined by this Court as to the surplus funds paid into the Court;
5. That this action be discontinued and dismissed as to the Plaintiff, it being merely a stakeholder and having no interest in said funds; and
6. For such other and further relief as this Court deems just and proper.

CITIBANK, N.A., AS TRUSTEE,
By its Attorneys,


Raymond C. Pelote

BBO#: 655475

David M. Rosen

BBO#: 552866

Harmon Law Offices, P.C.

150 California Street

Newton, MA 02458

MAILING ADDRESS:

P.O. Box 610389

Newton Highlands, MA 02461-0389

(617) 558-0500

January 27, 2005

EXHIBIT "A"

SUCCESSFUL BID: \$ 270,000.00

PAYMENT TO PRINCIPAL: \$ 249,610.50

SURPLUS FUNDS: \$ 20,389.50

05-40045-FDS

JS 44 (Rev. 3/99)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

(a) PLAINTIFFS

Citibank, N.A. as Trustee

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANTS

United States of America
et al.,

County of Residence of First Listed _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

Raymond Pelote Newton, MA 02458
Harmon Law Offices (617) 558-0500
150 California St.

Attorneys (If Known)

Lydia B. Turanchik, Trial Attorney, Tax Div.
U.S. Department of Justice, P.O. Box 55
Ben Franklin Station, Washington, DC 20044
(202) 307-6560

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☐ 1 ☐ 1 DEF Incorporated or Principal Place of Business in This State ☐ 4 ☐ 4 DEF
- Citizen of Another State ☐ 2 ☐ 2 DEF Incorporated and Principal Place of Business in Another State ☐ 5 ☐ 5 DEF
- Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 DEF Foreign Nation ☐ 6 ☐ 6 DEF

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of <input type="checkbox"/> 160 Medicare Act <input type="checkbox"/> 170 Student Loans (Excl. Veterans) <input type="checkbox"/> 180 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 190 Stockholders' Suits <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
FEDERAL TAX SUITS <input checked="" type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609				

V. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

(Cite the U.S. Civil Statute under which you are filing and write brief statement of cause.
Do not cite jurisdictional statutes unless diversity.)

28 U.S.C. Sec. 2410

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint.

JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S)

(See instructions):

IF ANY

JUDGE

DOCKET NUMBER

SIGNATURE OF ATTORNEY OF RECORD

Lydia B. Turanchik

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

Service List

Raymond C. Pelote, Esq.
Harmon Law Offices, P.C.
150 California Street
Post Office Box 610389
Newton, Massachusetts 02458

John P. Phelan
812 West Shore Drive
Ashburnham, Massachusetts 01430

Wendy Phelan
c/o John J. Curley, Esq.
McEvelly & Curley
48 West Street
Suite 1
Leominster, Massachusetts 01453

David LaBrie
c/o Peter Mirageas, Esq.
27 Prospect Street
Marlboro, Massachusetts 01752

O'Callaghan Construction Co.
c/o Edwin H. Howard, Esq.
Bonville & Howard
154 Prichard Street
Fitchburg, Massachusetts 01420

Massachusetts Department of Revenue
Litigation Bureau
P.O Box 9565
100 Cambridge Street
Boston, Massachusetts 02114

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

APPENDIX C LOCAL COVER SHEET

1. TITLE OF CASE (NAME OF FIRST PARTY ON EACH SIDE ONLY) Citibank v. Phelon, et al.
2. CATEGORY IN WHICH THE CASE BELONGS BASED UPON THE NUMBERED NATURE OF SUIT CODE LISTED ON THE CIVIL COVER SHEET. (SEE LOCAL RULE 40.1(A)(1)).
- I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT. 7005 17
- II. 195, 368, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820*, 830*, 840*, 850, 890, 892-894, 895, 950. *Also complete AO 120 or AO 121 for patent, trademark or copyright cases
- III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.
- X IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.
- V. 150, 152, 153.
3. TITLE AND NUMBER, IF ANY, OF RELATED CASES. (SEE LOCAL RULE 40.1(G)). IF MORE THAN ONE PRIOR RELATED CASE HAS BEEN FILED IN THIS DISTRICT PLEASE INDICATE THE TITLE AND NUMBER OF THE FIRST FILED CASE IN THIS COURT.
4. HAS A PRIOR ACTION BETWEEN THE SAME PARTIES AND BASED ON THE SAME CLAIM EVER BEEN FILED IN THIS COURT?
- YES ☐ NO ☒
5. DOES THE COMPLAINT IN THIS CASE QUESTION THE CONSTITUTIONALITY OF AN ACT OF CONGRESS AFFECTING THE PUBLIC INTEREST? (SEE 28 USC §2403)
- YES ☐ NO ☒
- IF SO, IS THE U.S.A. OR AN OFFICER, AGENT OR EMPLOYEE OF THE U.S. A PARTY?
- YES ☐ NO ☐
6. IS THIS CASE REQUIRED TO BE HEARD AND DETERMINED BY A DISTRICT COURT OF THREE JUDGES PURSUANT TO TITLE 28 USC §2284?
- YES ☐ NO ☒
7. DO ALL OF THE PARTIES IN THIS ACTION, EXCLUDING GOVERNMENTAL AGENCIES OF THE UNITED STATES AND THE COMMONWEALTH OF MASSACHUSETTS ("GOVERNMENTAL AGENCIES"), RESIDING IN MASSACHUSETTS RESIDE IN THE SAME DIVISION? - (SEE LOCAL RULE 40.1(D)).
- YES ☒ NO ☐
- A. IF YES, IN WHICH DIVISION DO ALL OF THE NON-GOVERNMENTAL PARTIES RESIDE?
- EASTERN DIVISION ☐ CENTRAL DIVISION ☒ WESTERN DIVISION ☐
- B. IF NO, IN WHICH DIVISION DO THE MAJORITY OF THE PLAINTIFFS OR THE ONLY PARTIES, EXCLUDING GOVERNMENTAL AGENCIES, RESIDING IN MASSACHUSETTS RESIDE?
- EASTERN DIVISION ☐ CENTRAL DIVISION ☐ WESTERN DIVISION ☐

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Lydia B. Turanchik, Trial Attorney, Tax Division, U.S. Dept. of JusticeADDRESS P.O. Box 55, Ben Franklin Station, Washington, DC 20044TELEPHONE NO. (202) 307-6560